

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LATESIA ALLEN,)	
)	CIVIL ACTION FILE
Plaintiff,)	NO. _____
)	
vs.)	On removal from the State Court
)	of Clayton County, Civil Action
WALMART STORES EAST, LP:)	File No.: 2023CV01005-MG
ABC CORPS #1-3; AND JOHN)	
DOES #1-3,)	JURY TRIAL DEMANDED
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW WAL-MART STORES EAST, LP, incorrectly identified as “Walmart Stores East, LP.,” (hereinafter, “Walmart”) a named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff commenced this action by filing a Complaint on April 28, 2023, in the State Court of Clayton County, Georgia, which is within the Atlanta Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 2023CV01005-MG in that Court. (See generally Complaint, a copy of which is included in attached Exhibit “A”).

Plaintiff's claims against Walmart include claims of negligence and premise liability. (See generally Complaint).

2.

Plaintiff's Complaint was filed in the State Court of Clayton County on April 28, 2023 - hereinafter referred to as the "Clayton County Suit." (See generally Complaint)

3.

Defendant WAL-MART STORES EAST, LP was served with a copy of the Summons and Complaint in the Clayton County Suit on or about June 7, 2023. (See Service of Process Transmittal Summary, a copy of which is included within Exhibit "A"). Defendant WAL-MART STORES EAST, LP has filed this notice of Removal within thirty (30) days of service in the Clayton County Suit.

4.

Defendant WAL-MART STORES EAST, LP is a Delaware limited partnership, of which WSE Management, LLC is the only general partner, and WSE Investment, LLC is the only limited partner. The sole member of WSE Management, LLC and of WSE Investment, LLC is Wal-Mart Stores East, LLC, and the sole member of Wal-Mart Stores East, LLC is WALMART INC. WALMART INC. is a Delaware corporation with its principal place of business in

the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 124 West Capitol Avenue, Suite 1900, Little Rock, Arkansas 72201. (See Complaint, ¶ 2; See also Georgia Secretary of State and Delaware Secretary of State documents, a copy of which is attached hereto as Exhibit “B”).

5.

Plaintiff Allen has alleged she is a citizen of the State of Georgia. (See Complaint, ¶ 1).

6.

Defendants John Does 1-3 and ABC Corps #1-3 are fictitious Defendants whose citizenships must be disregarded for removal purposes. See 28 U.S.C. § 1441(b)(1); Weiland v. Palm Beach Cty. Sheriff’s Office, 792 F.3d 1313, 1318 n.4 (11th Cir. 2015).

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

Plaintiff claims personal injury from a slip-and-fall incident and seeks general and special damages, including past medical expenses. In Plaintiff’s June

28, 2023, Time Limit Demand, she demanded \$1,000,000.00 to resolve her claims. (See Plaintiff's June 28, 2023, Time Limit Demand, Attached as Exhibit "C"). Thus, based upon Plaintiff's demand, the amount in controversy exceeds \$75,000.00.

9.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

10.

Pursuant to the provisions of 28 U.S.C. § 1446, Walmart has attached as Exhibit "A" copies of all the pleadings that were provided to and served upon Walmart, including copies of all pleadings that have been filed to date in the Clayton Court Suit.

11.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

12.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

13.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Clayton County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant WAL-MART STORES EAST, LP, prays that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 25 day of July, 2023.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Matthew J. Hurst
Matthew J. Hurst
Georgia Bar No. 480267
Attorney for Walmart Stores East, LP.

900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
mhurst@wachp.com

5.1 CERTIFICATE OF COMPLIANCE

I hereby certify that this document was prepared in Times New Roman font, 14-point and complies with Local Rules 5.1(C), NDGa.

This 25 day of July, 2023.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Matthew J. Hurst
Matthew J. Hurst
Georgia Bar No. 480267
Attorney for Walmart Stores East, LP.

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Suite 1040
Atlanta, Georgia 30339
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CERTIFICATE OF SERVICE

This is to certify that I have this day served electronically filed a ***NOTICE OF REMOVAL*** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record and upon all parties to this matter by United States mail, postage prepaid, and properly addressed as follows:

Toya Perkins, Esq.
Morgan & Morgan Atlanta, PLLC
P.O. Box 57007
Atlanta, GA 30343
tperkins@forthepeople.com

This 25 day of July, 2023.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Matthew J. Hurst
Matthew J. Hurst
Georgia Bar No. 480267
Attorney for Walmart Stores East, LP.

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